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COMMISSION ON HUMAN RIGHTS

Fifty-eighth session

SUMMARY RECORD OF THE 57th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 26 April 2002, at 10 a.m.

Chairperson: Mr. JAKUBOWSKI (Poland)

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The meeting was called to order at 10.10 a.m.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights) said that the current session of the Commission called for deep reflection. Everyone wished the human rights idea to triumph nationally, regionally, and internationally. How that was to be achieved was a topic that excited great passions and had given rise to both agreement and divisions. Every effort must be made to spread a universal culture of human rights and to protect the victims of violations in any part of the world; that had always been the policy of the Commission and must remain its bedrock in the future. If the Commission were unable to provide protection for those whose rights were being violated on a massive scale, it would lose its essence.

2. In the aftermath of 11 September 2001, and with acute conflict and tensions in some parts of the world, it had been clear from the outset that the session would be a difficult one. However, no one could have envisaged just how difficult it would prove to be organizationally. Following the cancellation of evening and night meetings, the Commission had been forced to make drastic adjustments to its work.

3. She paid tribute to the Chairperson, for the wisdom and patience he had demonstrated in bringing the session towards a successful conclusion, and to the members of the Expanded Bureau who had faced unprecedented organizational difficulties due to lack of meeting services. Her own team had coped well at every level. She hoped that such a situation would not be repeated in the future, so that the rapporteurs, national institutions and non-governmental organizations (NGOs) would be heard in fair and full measure.

4. It was important to reflect on how that situation highlighted the need to re-evaluate the essential contribution the Commission made in giving leadership in human rights. She pledged to work closely with the Chairperson and the Bureau over the following months and to encourage the process of reflection.

5. In addition to organizational difficulties, the Commission had been forced to cope with acute substantive and procedural difficulties due to the worsening situation in the occupied Palestinian territories and Israel. That was the first shadow darkening the human rights horizon that had been identified by the Secretary-General in his address to the Commission. The Commission had recognized the need to respond to the severe loss of life of both Palestinians and Israelis and to the spiral of violence that raised fundamental challenges with regard to the observance of international human rights and humanitarian law. The Commission had reviewed the situation, called for a Visiting Mission, called for and received a fact-finding report, and had kept the situation under review. The steps it had taken stemmed from its commitment to protect victims of violations of human rights in a particularly difficult context.

6. The second shadow was the terrorist attacks of 11 September 2001 and their aftermath. A number of strong statements at the session had affirmed the importance of fully upholding human rights and humanitarian law standards in combating terrorism. Her Office was ready to respond in support of any initiative the Commission might think appropriate in order to signal clearly that human rights should not be sacrificed in the fight against terrorism.

7. The divisive debates and votes on situations of alleged gross violations of human rights also called for deep reflection. The human rights movement was concerned about allegations that issues in the Commission were being increasingly politicized, to the detriment of true human rights concerns. The essential role of the Commission was to protect human beings against gross violations, by highlighting and publicizing those violations, providing a forum for victims to state their grievances and to see their issues addressed, heeding the voice of conscience from different parts of the world, enabling NGOs to put forward views and perspectives that were alternative to those of Governments, developing norms and standards and continuing the "building blocks" protection role of the Commission. From that perspective, it was vital that special rapporteurs, representatives of national human rights institutions and NGOs were able and encouraged to enter into a dialogue with the Commission.

8. In the mid-1960s, the newly-independent countries had pressed the United Nations to address situations of gross violations of human rights. Developing countries had led efforts towards the adoption of resolution 8 (XXIII), which remained the policy framework whereby the Commission engaged in an annual review of situations where gross violations of human rights were allegedly taking place and took appropriate action to protect victims.

9. Some of the same developing countries were currently arguing that they were being too much criticized. However, in situations where there were gross violations of human rights, it was surely the Commission's role to seek to protect the victims. If States considered that the existing methods were not adequate, it was the responsibility of the Commission to find adequate ways of helping to protect the victims of such violations. The international community had a duty to provide protection for those whose rights were being grievously violated. She wondered how the Commission, the central human rights body in the United Nations, would continue to discharge that duty.

10. The Commission's very success in highlighting and mainstreaming human rights issues could have negative repercussions; for example, there might be a trend to weaken the protection role that the Commission had been exercising. In the voting on country situations, there had been a tendency to avoid action if consensus was not possible. The core role of the Commission in protecting human rights through drawing attention to violations must be retained. It was clear that, in the future, it needed to be matched by a greater commitment to provide resources for technical cooperation and advisory services to assist countries in building and strengthening their national capacity in the rule of law, the administration of justice and adherence to human rights norms and standards. Criticism would then be perceived as constructive and forward-looking, not judgemental finger-pointing.

11. The Expanded Bureau and the Chairperson should engage in consultations on the Commission's protective role in the field of human rights and consider how that role could be carried out in an equitable manner. The Commission must remain faithful to its historic mission to protect human rights.

12. Notwithstanding the difficulties experienced at the current session, including a worrying North/South divide in voting on resolutions on issues such as racism and the right to development, significant progress had been made. She welcomed the advances made with regard to the draft resolution on the human rights of persons with disabilities (E/CN.4/2002/L.84), which called on her Office to report to the Commission's fifty-ninth session on the progress made in that sphere. Although the resolution on a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been the subject of much debate, she hoped that, as the drafting process continued, it would prove to be one of the important outcomes of the session.

13. The Commission had called for cooperation with thematic and country mechanisms, and that call must be heeded. Resolutions dealing with human rights in various conflict situations contained important recommendations on the advancement of human rights. The resolution on human rights in Afghanistan would give encouragement to the long-suffering people of that country. The emphasis placed on the implementation of the human rights provisions of the Bonn Agreement provided important policy guidance for the international community, which was a priority commitment for her Office.

14. Without a doubt, progress had been made at the current session. In the hope, therefore, that there would be a broad reflection over the following months, it was essential to instil particular human rights significance into the membership of the Commission. Members might consider anew adherence to those human rights instruments to which they were not yet a party, review their existing reporting practice or issue a standing invitation to all thematic rapporteurs. That would be an ideal opportunity to lead by example.

15. In 1947, René Cassin, one of the principal drafters of the Universal Declaration of Human Rights, had drawn attention to the fact that the Commission and the organs of the United Nations should assure respect for human rights in pursuance of the Charter and that the normal courts in each country should be able to provide effective remedies for those whose rights were at risk. Petitions and complaints should be examined by independent persons of repute with powers of enquiry. He had concluded by highlighting the importance of preventive measures which depended largely on the collaboration of States with the United Nations and the vigilance of public opinion, and means of redress, or even punishment, of the violations committed.

16. She asked to what extent the Commission had been faithful to that vision and what more it could do to prevent gross violations of human rights. The prevention of gross violations of human rights must be the starting point of the human rights agenda of the future. That crucial challenge should be central to the Commission's process of reflection.

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS;

(b) HUMAN RIGHTS DEFENDERS;

(c) INFORMATION AND EDUCATION;

(d) SCIENCE AND ENVIRONMENT

(agenda item 17) (continued) (E/CN.4/2002/L.110 and L.115)

Draft resolution on the enhancement of international cooperation in the field of human rights (E/CN.4/2002/L.115)

17. Mr. NENE (South Africa), introducing the draft resolution on behalf of the Non-Aligned Movement and China, said he hoped that it would be adopted by consensus.

18. The CHAIRPERSON said that the draft resolution had no financial implications.

19. Ms. GERVAIS-VIDRICAIRE (Canada), speaking in explanation of vote before the voting, with the support of the observer for Australia, said that because of the late tabling of the draft resolution, her delegation had been unable to engage in the informal consultations. It continued to have reservations about the fourth preambular paragraph, which welcomed the adoption of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and its role in the enhancement of international cooperation in the field of human rights. There was no doubt that the Durban Conference had contributed in some ways to the enhancement of international cooperation in the field of human rights but in other ways it had seriously hindered it. Consequently, her delegation would abstain from voting.

20. Mr. SALLOUM (Syrian Arab Republic) said that, although the Durban Declaration and Programme of Action had failed to meet all expectations, they nevertheless represented a solid foundation for improving international cooperation in the field of human rights. His delegation would vote in favour of the draft resolution.

21. Ms. DIAZ FERNANDEZ-GIL (Spain), speaking on behalf of the States of the European Union that were members of the Commission, said that the Union deeply regretted that the text of the draft resolution had been introduced after the deadline, as a result of which delegations had been unsure whether the Commission would take action upon it. She hoped that the current exception would not constitute a dangerous precedent. The delegations for which she was speaking were prepared to continue analysing the content of the draft resolution at the Commission's next session.

22. At the request of the representative of Canada, a recorded vote was taken on the draft resolution.

In favour: Algeria, Argentina, Armenia, Bahrain, Brazil, Burundi, Cameroon, Chile, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Guatemala, India, Indonesia, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Nigeria, Pakistan, Peru, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Uruguay, Venezuela, Viet Nam, Zambia.

Against: None.

Abstaining: Austria, Belgium, Canada, Croatia, Czech Republic, France, Germany, Italy, Poland, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland.

23. The draft resolution was adopted by 40 votes to none, with 13 abstentions.

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS:

(a) TREATY BODIES;

(b) NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS;

(c) ADAPTATION AND STRENGTHENING OF THE UNITED NATIONS MACHINERY FOR HUMAN RIGHTS

(agenda item 18) (continued) (E/CN.4/2001/L.96, L.99, L.103, L.105 and L.112)

Draft resolution on the protection of United Nations personnel (E/CN.4/2002/L.96)

24. Mr. MENDOÇA E MOURA (Portugal), introducing the draft resolution on behalf of its sponsors, said that it echoed some of the concerns expressed by the Secretary-General in his reports to the General Assembly and underlined the importance of investigating the threats and acts of violence that continued to be perpetrated against United Nations personnel, and of prosecuting those responsible. The strongest deterrent to such attacks was the swift application of justice. It appealed to all parties in armed conflicts to ensure the security of United Nations personnel in compliance with international humanitarian law and reiterated the appeal to States to become parties to the Convention on the Safety of United Nations and Associated Personnel and the Rome Statute of the International Criminal Court.

25. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Brazil, Croatia, Japan, Peru and Venezuela and the observers for Andorra, Georgia, Liechtenstein, the Netherlands and Switzerland had become sponsors of the draft resolution, which had no financial implications.

26. The draft resolution was adopted.

Draft resolution on regional cooperation for the promotion and protection of human rights in the Asian and Pacific region (E/CN.4/2002/L.99)

27. Ms. NOUREDDINNE (Observer for Lebanon) said that the draft resolution would endorse the conclusions of the tenth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian-Pacific Region, which her country had hosted in 2002, and reiterate the importance of regional cooperation for human rights promotion and protection.

28. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Japan, the Republic of Korea and Thailand and the observers for Oman and the Philippines had become sponsors of the draft resolution, which had no financial implications.

29. The draft resolution was adopted.

Draft resolution on national institutions for the promotion and protection of human rights (E/CN.4/2002/L.103)

30. Mr. STEWART (Observer for Australia), introducing the draft resolution on behalf of its sponsors, said that there were two changes to be made to its text. The word "now" should be deleted from the first line of the ninth preambular paragraph and paragraph 2 should be modified to read:

> "*Reiterates*, 10 years after their formulation, the continued importance of these Principles, recognizes the value of further strengthening their application, and encourages States, national institutions and other interested parties to consider ways to achieve this."

31. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Argentina, Canada, Costa Rica, Croatia, Ecuador, France, India, Indonesia, Japan, Peru, Poland, the Republic of Korea, the Russian Federation, Senegal, South Africa, Sweden and Uganda and the observers for Azerbaijan, Bosnia and Herzegovina, Colombia, Cyprus, Israel, Malta, Moldova, Turkey, Ukraine, the United States of America and Yugoslavia had become sponsors of the draft resolution, which had no financial implications.

32. The draft resolution, as orally revised, was adopted.

Draft resolution on human rights and thematic procedures (E/CN.4/2002/L.105)

33. Mr. SLABY (Czech Republic), introducing the draft resolution on behalf of its sponsors, said that it emphasized the obligation of Governments to cooperate with the thematic procedures, stressed the role which NGOs had to play in the promotion and protection of human rights and invited them to cooperate with the special procedures.

34. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Austria, Belgium, Costa Rica and Italy had become sponsors of the draft resolution.

35. Ms. WONG (Secretariat) said, with regard to paragraph 12 of the draft resolution, that she wished to draw the Commission's attention to part B, Section VI of General Assembly resolution 45/248 which reaffirmed that administrative and budgetary matters were the responsibility of the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions (ACABQ).

36. The draft resolution was adopted.

Draft resolution on effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (E/CN.4/2002/L.112)

37. Ms. CHATSIS (Canada), introducing the draft resolution on behalf of its sponsors, said that it attempted to address some of the major challenges facing the treaty bodies, the Secretariat and the States parties in fulfilment of their responsibilities with respect to the treaty bodies. It also addressed the important issue of financing for the treaty body system, the need for increased regular budget funding and for extrabudgetary resources.

38. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Costa Rica, Croatia, France, Italy, Japan, Republic of Korea, South Africa, Spain, Sweden and the United Kingdom and the observers for Andorra, Georgia, Hungary, Liechtenstein, Turkey, Ukraine and United States of America had become sponsors of the draft resolution.

39. Ms. WONG (Secretariat) said that, in connection with paragraph 5 (a) and (b) of the draft resolution, she wished to draw the Commission's attention to part B, Section VI of General Assembly resolution 45/248 which reaffirmed that administrative and budgetary matters were the responsibility of the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions (ACABQ).

40. The draft resolution was adopted.

41. Mr. HARAGUCHI (Japan), said, in connection with the adoption of the draft resolution on the composition of the staff of the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2002/L.94) that the principle of equitable geographical distribution should be respected by all United Nations bodies when employing staff and the composition of the OHCHR staff was extremely unbalanced. His delegation believed that that situation needed to be improved by the recruitment of personnel from unrepresented or underrepresented

Member States. Unfortunately, the resolution also contained a number of paragraphs which his delegation found problematic and financially unrealistic. His delegation had made concrete proposals based on the appropriate General Assembly resolution dealing with management of personnel affairs for the modification of the text but they had not been accepted and it had therefore been left with no other choice but to vote against the draft resolution.

ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (continued) (E/CN.4/2002/L.108/Rev.1, L.111, and L.113)

Draft resolution on advisory services and technical cooperation in the field of human rights (E/CN.4/2002/L.108/Rev.1)

42. Mr. PRASAD (India), introducing the draft resolution on behalf of Germany and its 80 other sponsors, said that it reiterated the principles underlying the concept of advisory services; recognized the importance of developing and implementing a technical cooperation programme to improve the situation with the State concerned and invited States to assist the Office of the High Commissioner for Human Rights (OHCHR) in developing and funding specific technical cooperation projects. The draft resolution, which reflected the views of developing and developed countries alike on the issues involved, represented a good example of cross-regional cooperation.

43. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Argentina, Armenia, Austria, Canada, Chile, Democratic Republic of the Congo, Ecuador, Guatemala, Japan, Peru, Portugal, Sierra Leone, Sudan, Swaziland, Uruguay and Venezuela and the observers for Angola, Azerbaijan, Benin, Bosnia and Herzegovina, Congo, Dominican Republic, Gabon, Ghana, Haiti, Luxembourg, Madagascar, Mongolia, Mozambique, Netherlands, Oman, Qatar, Sri Lanka, Turkey and the Ukraine had become sponsors of the draft resolution.

44. The draft resolution was adopted.

Draft resolution on assistance to Somalia in the field of human rights (E/CN.4/2002/L.111)

45. Mr. NEGROTTO CAMBIASO (Italy), introducing the draft resolution on behalf of its sponsors, said that Somalia was still facing a complex emergency and political situation despite the significant changes that had occurred since the last peacekeeping forces had departed in March 1995. The draft resolution expressed deep concern at reports of arbitrary and summary executions, torture and other cruel and inhumane treatment and condemned the widespread violations and abuses of human rights and humanitarian law. It also called on all parties to respect international humanitarian law in the national reconciliation process and all States to refrain from military intervention in Somalia and to abide by the arms embargo.

46. Mr. LEBAKINE (Secretary of the Commission) said that the observer for Greece had become a sponsor of the draft resolution.

47. Ms. WONG (Secretariat) said that the total cost of activities under paragraph 13 of the draft resolution would be US$ 3,000, which would be financed from extrabudgetary resources. Under paragraph 18, the total costs would be US$ 11,800 which were already included under Section 22. Consequently, no additional resources would be required if the resolution were adopted.

48. The draft resolution was adopted.

Draft resolution on the situation of human rights in Cambodia (E/CN.4/2002/L.113)

49. Mr. HARAGUCHI (Japan), introducing the draft resolution on behalf of its sponsors, said that it reflected the many positive developments that had taken place in Cambodia, made possible by the efforts of its Government, the United Nations office in Cambodia and other actors in the field of human rights. A major obstacle to improving the welfare of society in Cambodia was the lack of resources and his delegation appealed to the international community to lend a hand in supporting the Cambodian Government's endeavours.

50. Some editorial mistakes had been made in the text and a corrigendum had therefore been circulated. His delegation hoped that the draft resolution would help the future promotion and protection of human rights in Cambodia and that it would be adopted without a vote.

51. Mr. LEBAKINE (Secretary of the Commission) said that the representatives of Belgium, France, Portugal and Spain and the observers for Andorra, Greece and Ireland had become sponsors of the draft resolution.

52. Mr. SUOS (Observer for Cambodia) said that the draft resolution reflected the desire of the international community to contribute to the rebuilding of Cambodia's social infrastructure. Although there were some negative perceptions, his delegation had de .ded not to take them up. The issue of the Khmer Rouge Tribunal needed no further clarification as the United Nations decision to withdraw its participation in the establishment of the Tribunal was unilateral, much to the consternation of his Government, which was still committed to p osecuting the Khmer Rouge leaders.

53. Despite the meagre resources available to it, his Government was continuing its efforts to strengthen its democratic and human rights institutions. Two recent examples had been the local elections in February 2002 and Cambodia's ratification of the Rome Statute of the International Criminal Court. Any constitutional reform took time, however, and many democratic countries had taken hundreds of years to reach their current state of economic prosperity and democracy.

54. Ms. WONG (Secretariat) said that, in connection with paragraph 1 of the draft resolution, she wished to draw the Commission's attention to part B, section VI of General Assembly resolution 45/248 which reaffirmed that administrative and budgetary matters were the responsibility of the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions (ACABQ).

55. The draft resolution was adopted.

56. The CHAIRPERSON said that, under agenda item 19, there was a Chairperson's Statement to be delivered on technical cooperation and the situation of human rights in Haiti. Due to the emergency time constraints, the text of the draft statement had been distributed to all delegations and he assumed that the Commission wished to adopt it.

57. It was so decided.

RATIONALIZATION OF THE WORK OF THE COMMISSION (agenda item 20) (continued) (E/CN.4/2002/L.106/Rev.1)

Draft decision on the dates of the fifty-ninth session of the Commission on Human Rights (E/CN.4/2002/L.106/Rev.1)

58. Mr. REYES RODRIGUEZ (Cuba), speaking on a point of order, requested clarification as to whether the draft decision was to be considered under item 20 or item 3 of the agenda, since it had initially been tabled under agenda item 3.

59. Mr. KARKLIND (Observer for Latvia), introducing the draft decision on behalf of the Eastern European Group, said that it contained a proposal for the early election of the Bureau at the beginning of the year and, since that was a rationalization of the work of the Commission, it had been tabled under agenda item 20. The revised text was substantially different from the original text since, for some unknown reason, the original document submitted had not been reproduced in the form requested by the Eastern European Group.

60. The proposal aimed at adjusting the longstanding practice of the Commission and aligning it to rules 10 and 19 of the rules of procedure, as well as creating the necessary preconditions for the effective preparation of the Commission's upcoming session. Early election of the Bureau would allow the new team to make relevant procedural and substantive decisions before the session so as to facilitate the Commission's work.

61. Mr. REYES RODRÍGUEZ (Cuba) said that there was clearly no need for an urgent decision on the matter. Although two members of the Bureau - the representatives of Brazil and Germany - were approaching the end of their mandates, their successors had already been endorsed by their respective regional groups. Substantive issues, however, arose in the proposal that there should be a break of continuity between one Commission session and the next, which would lead to a lack of accountability.

62. His own delegation had put forward a reasoned proposal based on the practices of other bodies. In the spirit of cooperation, it would not insist on a vote on the draft decision, but it wished to place on record its strong reservations. The proposed course of action could have long-term repercussions for the Commission's work. With more time for consultation, the issue could have been resolved.

63. The draft decision was adopted.

Draft decision on the expiration of office-holders' terms of appointment under special procedures

64. The CHAIRPERSON read out the text of the proposed draft decision:

"At its 57th meeting on 26 April 2002 the Commission decided without a vote:

(*a*) That the six-year period of time referred to in paragraph (ii) of subsection (a) ('special procedure mandates') of the Chairperson's Statement on Enhancement of the Effectiveness of the Mechanisms of the Commission on Human Rights of 29 April 1999, will not extend beyond the last day of the substantive session of the Economic and Social Council immediately following the relevant session of the Commission.

(*b*) That any reports on activities undertaken by the concerned individual office-holder between the date of submission of reports to the relevant session of the Commission and the last day of the Economic and Social Council substantive session will be circulated as official documents of the subsequent session of the Commission.

(*c*) That the Chairperson, in consultation with the Expanded Bureau, will endeavour to select and appoint office-holders as early as possible with a view to avoiding gaps between terms of office-holders."

65. He took it that the Commission wished to adopt the draft decision without a vote.

66. It was so decided.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/2002/L.93)

Draft resolution on the enhancement of the effectiveness of the working methods of the Commission (E/CN.4/2002/L.93)

67. Mr. ALFONSO MARTÍNEZ (Cuba), introducing the draft resolution on behalf of the Like-Minded Countries, said that it had already been obvious 10 years previously that it was impossible for all delegations to participate fully in the work of the Commission, owing to the amount of documentation produced and the difficulty, particularly for small delegations, of subjecting it to a proper analysis. The situation had since deteriorated, in that there were even more members of the Commission, the number of NGOs and other participants attending had increased and, moreover, there was a possibility that the very short speaking times permitted would be reduced still further.

68. Following negotiations with the European Union and other delegations, the sponsors had decided to make a number of changes to the text. A new third preambular paragraph should be inserted to read: "*Bearing in mind* the conclusions and recommendations on the improvement of the working methods of the Commission included in chapter Six of that report; in particular, those related to the agenda reform (para. 62), and the documentation to be submitted to its annual sessions (inter alia, para. 63)". At the end of the original fifth preambular paragraph, the words "for the present session" should be added.

69. The operative paragraphs should be recast to read:

> "1. *Decides* to initiate during its forthcoming fifty-ninth session, under present agenda item 20, an urgent and thorough review of the issue 'Enhancement of the effectiveness of the working methods of the Commission on Human Rights', in particular of those matters included in the non-exhaustive annex to this resolution;
>
> 2. *Calls upon* the regional groups recognized in the Commission to take the steps they may consider appropriate to initiate, as soon as possible, the analysis of the matters included in the non-exhaustive annex;
>
> 3. *Requests* the Office of the High Commissioner for Human Rights to solicit ideas and proposals on enhancing the effectiveness of the working methods of the Commission from Governments, regional groups and organizations and other participants at the Commission, with a view to submitting a comprehensive compilation of said views to the Commission by 31 December 2002;
>
> 4. *Requests* the Expanded Bureau of its upcoming session to submit, at the initial stage of the fifty-ninth session, proposals on how to proceed to consider this question in 2003 under agenda item 20."

70. The annex should contain a new item: "6. Arrangements for the participation of dignitaries in the annual session."

71. He announced that the representatives of Burundi, the Democratic Republic of the Congo, Kenya, the Russian Federation, Sierra Leone, Swaziland, Togo and Zambia and the observer for Mauritius had become sponsors of the draft resolution.

72. Following a request by Mr. PEREZ-VILLANUEVA y TOVAR (Spain), supported by Ms. GERVAIS-VIDRICAIRE (Canada), for a brief suspension of the consideration of the draft resolution, to allow for further consultations, to which Mr. ALFONSO MARTÍNEZ (Cuba) agreed, the CHAIRPERSON said that the Commission would defer its decision on the draft resolution until the 58th meeting.

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 4) (continued) (E/CN.4/2002/L.116)

Draft resolution on the situation of human rights in the occupied Palestinian territory (E/CN.4/2002/L.116)

73. Mr. AKRAM (Pakistan), introducing the draft resolution on behalf of the States members of the Organization of the Islamic Conference (OIC), said that, following consultations with other delegations, some changes had been made to the text of the draft resolution. Paragraph 3 would become paragraph 1 and the word "rejection" in the first line should be replaced by the word "denial" and the phrase "and the withdrawal of its agreement to receive the fact-finding team nominated by the United Nations Secretary-General" at the end of the paragraph should be deleted. Paragraph 1 would become paragraph 2; the words "and systematic" in the second line being replaced by the phrase "widespread and flagrant".

74. An understanding reached with certain delegations concerning the insertion in paragraph 4 of the phrase "in this context", after the word "Endorses" had, regrettably, not survived the consultations. In the spirit of cooperation imbuing IOC, however, the sponsors would honour the understanding and retain the text with that change, rather than reverting to stronger language. He hoped that the text, as modified, would be acceptable.

75. In response to an observation by Mr. MENDOÇA E MOURA (Portugal), he agreed that it was inconsistent to retain the word "systematic" in the penultimate line of new paragraph 3 (former paragraph 2). There, too, it should be replaced by the phrase "widespread and flagrant".

76. Mr. VEGA (Chile) said that, like those of several other Latin American countries, his delegation was anxious to adopt a draft resolution that would strengthen the Commission's approach to human rights in the Middle East. The phrase "in this context" constituted a real stumbling block, however, since it was not clear whether the "context" referred to was the High Commissioner's recent report or the preceding paragraphs of the draft resolution. In the latter case, his delegation would find it difficult to support the draft resolution. He requested clarification or else a separate vote on paragraph 4.

77. Mr. AKRAM (Pakistan) said that, as the representative of Chile well knew, several hours of consultation had been devoted to the phrase "in this context". He preferred not to put an interpretation on it, because it spoke for itself. It was for the Chilean delegation to decide for itself what the "context" was and whether to vote for or against the draft resolution.

78. Mr. VEGA (Chile) said that he was seeking not an "interpretation" but the actual meaning of the phrase, so that delegations would know what they were endorsing.

79. Mr. PEREZ DEL CASTILLO (Uruguay) concurred. When the High Commissioner had submitted her report, she had done so in a clearly defined context. If the sponsors accepted that, there was no need to retain the phrase "in this context". The matter should be clarified, in order to avoid differing interpretations of the phrase in the future.

80. Mr. VOTO-BERNALES (Peru) agreed with the representatives of Chile and Uruguay. The phrase could be interpreted as applying to a context different from that of the High Commissioner's report.

81. Mr. DEMBRI (Algeria) said that the Commission should not allow a problem of interpretation to prevent it from adopting the draft resolution without a vote. There was no ambiguity in the phrase concerned; it simply referred to the situation as described in the High Commissioner's report. Indeed, it could be regarded as a mere linking phrase, with no connection with any extraneous issues.

82. Mr. MENDOÇA E MOURA (Portugal) said that he had, perhaps naively, assumed that the phrase was to be read in the context of the entire draft resolution. The High Commissioner's report was what gave the draft resolution its added value since the general situation in the Middle East had been constantly discussed during the current session. Paragraph 62 of her report, above all, was crucial, in that it suggested further investigation. His delegation would be able to support the draft resolution if the High Commissioner's report was acknowledged to be its framework.

83. Mr. AKRAM (Pakistan) said the context was the Committee's decision of 16 April 2002 to request the High Commissioner to undertake a mission to the Middle East to report on the deteriorating situation in the occupied Palestinian territory and the Israeli authorities refusal to cooperate with her. The context was also the High Commissioner's report and, above all, the grave humanitarian situation which had arisen as a result of the Israeli incursion into Palestinian territory. The draft resolution addressed concerns about the human rights situation of the civilian population and there did not seem to him to be any ambiguity.

84. Mr. VEGA (Chile) said that, in his opinion, the context should be that of the report of the High Commissioner only and he therefore requested a separate vote on inclusion of the words "in this context" in paragraph 4.

85. Mr. DEMBRI (Algeria) reiterated that it was his understanding, as confirmed by the representative of Pakistan, that the context was the refusal of the Israeli authorities to allow access to the occupied territories by the High Commissioner as well as the High Commissioner's report. The draft resolution sought to support the High Commissioner's call for an investigation of the situation in the occupied territories and to address the concerns relating to the serious humanitarian situation. He hoped that a vote could be avoided.

86. Mr. MENDOÇA E MOURA (Portugal) said that if the purpose of the draft resolution was to support the High Commissioner's call for an investigation, the words "in this context" were not essential and could easily be deleted, thereby allowing the draft resolution to enjoy broad support.

87. Mr. VOTO-BERNALES (Peru) said he agreed that the words "in this context" were open to misinterpretation and might be construed to imply more than the investigation proposed by the High Commissioner. If those words were not removed from the proposed text, he requested a recorded vote on their deletion.

88. Mr. LEVY (Observer for Israel) said that he regretted that the Commission had consistently failed to make a positive contribution to the human rights situation in the Middle East by adopting an unbalanced and unhelpful approach, insisting on singling out only one of the parties for harsh criticisms. The debates and resolutions did not take into account the human rights violations suffered by the Israeli population or mention the havoc caused by suicide bombers.

89. He had already explained why Israel had been compelled to act in self-defence, in particular with regard to the refugee camp in Jenin, from which 23 suicide bombers had come, killing and maiming hundreds of Israelis, with another 3 bombers being intercepted before they could carry out their missions. The Commission had also disregarded human rights abuses on the part of the Palestinian Authority, which stockpiled arms and explosives in civilian refugee camps and was guilty of executing Palestinians accused of collaborating with Israel.

90. The draft resolution, by again ignoring the suffering of the Israeli people did not serve the cause of human rights in the region. It did not call for an end to incitement to violence and the abuse of women and children, who were encouraged to become suicide bombers. He appealed to all delegations which were truly attached to peace to vote against the draft resolution.

91. Mr. RAMLAWI (Observer for Palestine) said that Israel, as the military occupying Power, was responsible for acts of aggression and human rights crimes in the Palestinian territory, especially the refugee camp in Jenin. In painting Israel as the victim, the observer for Israel was trying to manipulate the Commission.

92. He did not understand the confusion over the words "in this context". The context was violations of the rights of the Palestinian people by Israel, a situation which the Commission had already condemned. The draft resolution simply established a link between the stance adopted by the Commission in the past and the High Commissioner's request for an investigation. The Commission should be consistent in clearly condemning unacceptable actions on the part of the occupying Power and he appealed to it to adopt the draft resolution without a vote.

93. Mr. DEMBRI (Algeria) expressed shock at the tenor of the statement by the representative of Israel. The Commission had deplored all civilian victims of violence and he pointed out that Israel bore a special responsibility for the deterioration in the situation by using overwhelming military force against civilians and their lightly armed defenders.

94. Mr. VOTO-BERNALES (Peru), speaking on a point of order, reminded the Commission that he had requested a recorded vote on his proposal to delete the words "in this context" from paragraph 4.

95. Mr. AKRAM (Pakistan), speaking on a point of order, said that it was the representative of Chile who had first called for a separate vote on the retention or deletion of the words "in this context".

96. Mr. VEGA (Chile) explained that his delegation would have been able to support the draft resolution if it had been clear that the words "in this context" referred simply to the report of the High Commissioner. That was not clear and he had therefore asked for a separate vote on whether or not to delete those words; he supported the request by the representative of Peru for a recorded vote on his proposal to delete the words "in this context".

97. Mr. AKRAM (Pakistan) said that the sponsors would oppose deletion of the words "in this context" and he hoped that all those who were concerned at the grave situation in the occupied territories would do likewise. He stressed that the general context for the investigation proposed by the High Commissioner was, in fact, the situation caused by military operations against the civilian population.

98. Mr. ARENALES FORNO (Guatemala), speaking in explanation of vote before the voting, said that his delegation found the entire draft resolution unbalanced and unsatisfactory. It would abstain during the voting on the deletion of the words "in this context".

99. Mr. MORA GODOY (Cuba) said that the preambular and operative paragraphs clearly defined the context for the investigation proposed by the High Commissioner and his delegation would therefore vote against the deletion of the words "in this context".

100. Mr. PEREZ DEL CASTILLO (Uruguay) said that all delegations were fully aware of the humanitarian emergency in the occupied territories and supported the High Commissioner's proposal for an investigation. Delegations calling for the deletion of the words "in this context" simply felt that they might be open to misinterpretation and wished to remove any ambiguity so that the High Commissioner's call for an investigation would receive the broadest possible support.

101. At the request of the representative of Peru, a recorded vote was taken on his proposal to delete the words "in this context" in paragraph 4 of the draft resolution.

In favour:	Argentina, Belgium, Canada, Chile, Costa Rica, Croatia, Ecuador, Mexico, Peru, Portugal, Sweden, Uruguay.
Against:	Algeria, Armenia, Bahrain, Brazil, China, Cuba, Democratic Republic of the Congo, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Venezuela, Viet Nam, Zambia.
Abstaining:	Austria, Burundi, Cameroon, Czech Republic, France, Germany, Guatemala, Italy, Japan, Poland, Republic of Korea, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland.

102. The Peruvian proposal to delete the words "in this context" in paragraph 4 was rejected by 27 votes to 12, with 14 abstentions.

103. The CHAIRPERSON invited the Commission to take action on the draft resolution.

104. Mr. PEREZ-VILLANUEVA y TOVAR (Spain), speaking in explanation of vote before the voting on behalf of the European Union, said that he had taken the floor on numerous occasions during the current session to express the Union's concern at the grave situation in the Middle East and to condemn violence, terrorism and human rights violations. The draft resolution before the Commission made no useful contribution to improving the situation and provided no new information other than express support for the investigation proposed by the High Commissioner, which the Union fully approved. Unfortunately, the text framed support for that proposal in terms which attempted to distort and manipulate the situation. It was regrettable that there had not been full consultations on such an important matter. Given the unsatisfactory nature of the text, the delegations for which he was speaking would abstain from voting.

105. Mr. LUKIYANTSEV (Russian Federation) reiterated his delegation's concern at the situation in the Middle East and the disruption of the functioning of the Palestinian Authority. Given the scale of the humanitarian catastrophe, exceptional measures were required to assist the Palestinian people. The situation in Jenin and the suffering caused by military operations there were particularly deplorable. His delegation fully supported the High Commissioner's proposal for an investigation and called on both parties to cooperate fully with her.

106. While the Commission must react to the suffering of the innocent, he stressed that a lasting solution could be obtained only through political dialogue leading to the implementation of the relevant Security Council resolutions. His delegation, which would continue to work with all parties to resolve the crisis and achieve a settlement, would support the draft resolution.

107. Mr. ARENALES FORNO (Guatemala) said he regretted that the draft resolution was not a balanced one and did not, for example, mention the terrorist acts against Israeli civilians which had led directly to the current crisis. The Commission's numerous resolutions on the situation in the Middle East could in fact complicate the work of other, more appropriate, forums in attempting to achieve a settlement between the two parties. He therefore requested a recorded vote on the draft resolution and said his delegation would oppose it.

The meeting rose at 1 p.m.